

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

STATE OF OREGON,

C. 0761279937

Plaintiff,

\* FILED

DA No. \_\_\_\_\_

Citation No. \_\_\_\_\_

Defendant.

PETITION TO PLEAD GUILTY / NO CONTEST  
AND WAIVER OF JURY OR COURT TRIAL

The defendant represents to the Court:

1. My full true name is (See above), but I also am known as \_\_\_\_\_.
2. I am 29 years of age. I have gone to school through 11<sup>th</sup> grade. My physical and mental health is satisfactory. I am not under the influence of any drugs or intoxicants, except \_\_\_\_\_.
3. I have told my lawyer all the facts I know about the charge(s) against me. My lawyer has advised me of the nature of the charge(s), the defenses, if any, and any legal challenges that I have in this case. I am satisfied with the advice and help I have received from my lawyer.
4. I understand the following:
  - a. I have the right to hire a lawyer or, if I qualify financially, to have the Court appoint a lawyer to represent me.
    - ☒ I am represented by John Robb and Kevin Sali.
    - ☐ I choose to give up my right to a lawyer; I will represent myself: \_\_\_\_\_ (defendants initials).
  - b. I have the following rights at trial: (1) to have a jury or court trial; (2) to have my lawyer assist me; (3) to see, hear and cross-examine or question all witnesses who testify against me; (4) to testify; (5) to remain silent and to have the jury told, if I decide not to testify, that it cannot hold that decision against me as an indication of guilt; (6) to subpoena witnesses and evidence; and (7) to require the prosecutor to prove guilt and all sentence enhancement facts beyond a reasonable doubt.
  - c. I give up all of the rights listed in paragraph 4(b) when I plead either "Guilty" or "No Contest." I further understand that I give up: (1) challenges to the accusatory instrument; (2) objections to evidence concerning my guilt and, if applicable, any sentence enhancement facts; and (3) any defenses I may have to the charge(s). I understand the right to appeal my conviction is limited; I may appeal only if I can make a colorable showing of error in the disposition of my case or a colorable claim of error in the proceeding.
  - d. A No Contest Plea will result in a Guilty finding regarding the charge(s) listed in paragraph 5.
  - e. If I enter a plea of guilty or no contest to an offense involving domestic violence, and I am convicted of the offense, it may be unlawful for me to possess, receive, ship, transport or purchase a FIREARM, including a rifle, pistol, or revolver, or AMMUNITION, pursuant to 18 U.S.C. 922(g)(9), and/or other provisions of federal or state law, and the criminal conviction may negatively affect my ability to serve in the Armed Forces of the United States as defined in ORS 348.282 or to be employed in law enforcement. I should consult an attorney if I have questions about these potential consequences.
  - f. If I reside outside of Oregon and enter a plea of guilty or no contest to an offense, and I am convicted and given a sentence with a term of probation, a deferred sentence, or post prison supervision, I may be subject to the Interstate Compact on Adult Offender Supervision and cannot return to my State of residence until I have applied for, and been granted, permission to return as required by the Compact.
  - g. If a sentence of probation is imposed, I will be required to comply with the general conditions of probation, any special conditions imposed by the court, and the directives of the probation officer.
  - h. If my sentence includes a period of supervised probation, and I am accused of violating the terms of the probation, I may have an opportunity to waive my rights to a hearing before a judge by accepting the sanction offered by the probation officer. The severity of the sanction would depend upon the nature of my violation. I would know what the sanction would be before agreeing to it. Even if I agree to the sanction, the judge or prosecutor has the option to schedule a hearing on the alleged violation. I also understand I would have the right to a hearing before a judge to determine if I had violated my probation and, if so, what sanction, if any, might be imposed.
  - i. I have notice, pursuant to ORS 135.385, that if I am not a United States citizen, my plea of guilty or no contest will likely result in my removal from the USA, or denial of naturalization, and/or exclusion from future admission to the United States. I understand that removal and other immigration consequences are the subject of a separate proceeding and that no one,

including my attorney or the court, can predict to a certainty the effect of my conviction on my immigration status. I nevertheless affirm that I want to plead guilty regardless of any immigration consequences that my plea may entail, even if the consequence is my automatic removal from the United States.

j. This plea can affect probation or parole and any hearing I may have regarding probation or parole. If probation or parole is revoked, I know that the remainder of the sentence of incarceration in each case could be imposed and executed, and could be added to any sentence in this case.

k. I will be required to provide a blood or buccal sample if convicted of a felony or certain misdemeanors.

l. I have reviewed the maximum and minimum penalties for each charge set forth in paragraph 5. I know these maximum and minimum sentences can be added to sentences in these other cases: \_\_\_\_\_

5. I want to plead Guilty / No Contest to the following charge(s): \*Note whether Grid Block designation is pursuant to OAR or stipulation

Count	Charge	Grid Block	OAR or STIP*	Max Jail/Prison	Min Jail/Prison	Max Fine	Min Fine	ODL Sanction
1	Manslaughter II	8D	OAR	10 yrs	75m	250,000	-	-

6. I understand that I might ( ) will not (X) be sentenced as a dangerous offender, which could increase each sentence to a maximum of 30 years, with a 15 year minimum.

7. I have been told that if my crime involved my use or threatened use of a firearm, I (can) (will) receive a mandatory minimum sentence without parole or work release for a period of \_\_\_\_\_

8. I declare that no government agents have made any threats or promises to me to make me enter this plea other than the District Attorney's recommendation set forth in Paragraph 9, except: Dismiss remaining charges with prejudice and not bring additional charges arising from the investigation

9. I know that the sentence is up to the Court to decide. The District Attorney may provide reports or other information if requested by the Court. I understand that the District Attorney will make the following recommendation to the Court about my sentence or about other pending charges. This recommendation is ( ) is not (X) made pursuant to ORS 135.432 (2): 75 months prison per ORS 137.700, 36 months PPS

10. This agreement does (X) does not ( ) require the court to reinstate charges that are dismissed pursuant to the agreement if the court allows me to withdraw my plea of guilty or no contest under ORS 135.365, or if the judgment of conviction is reversed, vacated or set aside. If the agreement does require the court to reinstate dismissed charges, I waive the statute of limitations and any statutory or constitutional speedy trial or double jeopardy rights applicable to the dismissed charges.

11. I plead Guilty because, in Multnomah County, Oregon, I did the following: On August 17, 2014, I recklessly caused the death of Eric Lee Herring

☐ I plead No Contest because I understand that a jury or judge could find me guilty of the charge(s), so I am choosing to accept the plea offer (defendant's initials: \_\_\_\_\_).

12. I am signing this plea petition and entering this plea voluntarily, intelligently, and knowingly.

16CR79937  
(Case Number)

7/1/19  
(Date)

Jeffrey Sims  
(Defendant's Signature)

## CERTIFICATE OF COUNSEL

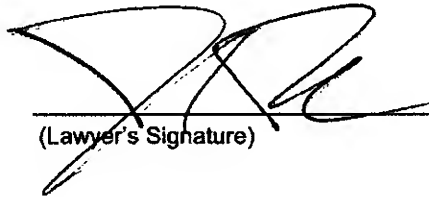
I am the lawyer for the defendant and I certify:

1. I have read and explained fully to the defendant the allegations contained in the accusatory instrument(s). I believe the defendant understands the charges and all possible defenses to them. I have explained the alternatives and the trial strategies to the defendant. I have explained to the defendant all of the sentencing consequences of entering this plea.
2. I have explained to the defendant the maximum and minimum penalties that could be imposed for each charge and for all charges together and provided a copy of the general conditions of probation if a probation sentence is to be imposed.
3. I have inquired into the immigration status of the defendant and if I have determined that the defendant is not a U.S. Citizen I have advised the defendant of possible immigration consequences resulting from this plea pursuant to Padilla v. Kentucky, 130 S.Ct. 1473 (2010).
4. The plea(s) offered by the defendant is (are) justified by my understanding of the facts related to me.
5. To the best of my knowledge and belief, the declarations made by the defendant in the foregoing petition are true and accurate.
6. To the best of my knowledge, the defendant's decision to enter this plea is made voluntarily, intelligently, and knowingly. I recommend that the Court accept the plea.

I have signed this certificate in the presence of the defendant and after full discussion of its contents with the defendant.

16CR79937  
(Case Number)

7/11/19  
(Date)

  
(Lawyer's Signature)

104910  
(Bar No.)